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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,051	10/19/2000	Ronald P. Lesser	P 268412 DM-3580	5363
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PILLSBURY WINTHROP, LLP			EXAMINER	
P.O. BOX 1050 MCLEAN, VA			OROPEZA, FRANCES P	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Saminer		Application No.	Applicant(s)				
## Examiner ## Frances P. Oropeza ## 3762 ## The MAILING DATE of this communication appears on the cover sheet with the correspondence address − Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. ** Extraction of intermy is a walking under the prostone of 3° CPR 1.130(s). In one event, however, may a reply be timely liked. ** If the period for reply a specified above, the readment of 3° CPR 1.130(s). In one event, however, may a reply be timely liked. ** If the period for reply a specified above, the readment stabulatory meriod will specify and will expens \$14, (8) MONTHS from the meriod plate of this communication. The period is reply a specified above, the readment shallong period will apply and will expens \$14, (8) MONTHS from the meriod plate of this communication. The period is period to the communication of this period is the period of this communication. The period is period to this communication, even if timely filed, may reduce any searce panel term eliquident. Set 3° CPR 1.764(s) searce panel panel term eliquident. Set 3° CPR 1.764(s) searce panel panel term eliquident. Set 3° CPR 1.764(s) searce panel panel term eliquident. Set 3° CPR 1.764(s) searce panel panel term eliquident. Set 3° CPR 1.764(s) searce panel panel term eliquident. Set 3° CPR 1.764(s) searce panel pane							
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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 35-50, drawn to a method for treating a medical disorder, classified in class 607, subclass 3.
 - II. Claims 51-56, drawn to a method for determining epilepsy treatment efficacy and administering treatment, classified in class 607, subclass 3.
 - III. Claims 57-60, drawn to a method for analyzing brain activity, classified in class 607, subclass 45.

Should the Applicant elect the first invention, the Applicant is further required to elect one species of claims 36-39 and to elect one species of claims 40 and 46-50 for prosecution on the merits.

The inventions are distinct, each from the other because of the following reasons:

Inventions I. and II. are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I. has separate utility such as a method for treating a medical disorder not requiring to determine whether an epileptic seizure is likely to occur or to determine whether treatments(s) are likely to prevent or abort epileptic seizure activity. See MPEP § 806.05(d).

Inventions I. and III. are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

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separately usable. In the instant case, invention I. has separate utility such as a method for treating a medical disorder where the monitored organ is the heart. See MPEP § 806.05(d).

Inventions II. and III. are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III. has separate utility such as a method for analyzing brain activity to predict when abnormal electrical activity will occur but not determining whether treatment(s) are likely to prevent or abort epileptic seizure activity. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art, as shown by their different classification and/or their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Should the Applicant traverse on the ground that the species are not patentably distinct, the Applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

The Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4520 for regular communication and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist, telephone number is (703) 308-0858.

Frances P. Oropeza Patent Examiner Art Unit 3762

3/1/03

ANGELA D. SYKES SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700

Angel D. Ash